

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CHARLES DAVID HARRIS,

Plaintiff,

v.

REECE LANE, et al.,

Defendant.

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Case No. CIV-14-236-D

REPORT AND RECOMMENDATION

Plaintiff, a state prisoner appearing pro se, has filed this action under 42 U.S.C. § 1983 alleging a violation of his constitutional rights. Pursuant to an order entered by United States District Judge Timothy D. DeGiusti, this matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). Plaintiff filed a Motion to Proceed *In Forma Pauperis*, ECF No. 2, on March 11, 2014. By an order dated March 13, 2014, the undersigned found that clarification as to the cause of action was necessary before a ruling on filing fees and/or *in forma pauperis* applications could be rendered. Therefore, Plaintiff was given until April 3, 2014 to submit the required information to the Court. Plaintiff was further advised that failure to comply with the Order could result in dismissal of his action. ECF No. 5.

A review of the court file reveals that the Plaintiff has failed to cure the deficiency, show good cause for his failure to do so, or request an extension of time to comply with the Court's order. The undersigned finds that Plaintiff's failure to

comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

RECOMMENDATION

It is therefore recommended that this action be **DISMISSED** without prejudice to re-filing. Further, in light of the foregoing findings, it is recommended that the motion contained in **ECF No. 2**, be **DENIED**. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **May 7, 2014** in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED on April 16, 2014.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE